

REMARKS

The Office Action of January 11, 2006, has been received and reviewed. Claims 1-3, 5-16, 25, 27-29, 37, and 38 are pending in the present application. All claims stand rejected. In view of the remarks presented herein, reconsideration is respectfully requested.

Rejections under 35 U.S.C. § 103(a)

Claims 1-3, 5-16, 25, 27-29, 37, and 38 stand rejected under 35 U.S.C. § 103(a) as assertedly being obvious over U.S. Patent 6,855,544.

In order to make a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. M.P.E.P. § 706.02(j). Applicants respectfully submit that claims 1 and 25 cannot be obvious in light of the '544 patent as this reference does not teach each and every element of claims 1 and 25. In interpreting the reference, the Examiner alleges that "the claims are not limited to influenza virus infections but clearly include production of influenza viral proteins." *Office Action* mailed January 11, 2006 at page 5. However, contrary to the Examiner's assertion, claims 1 and 25 recite "infecting said cell with an influenza virus." Applicants respectfully submit that although the '544 patent does teach the use of adenoviruses to infect cells, it does not teach the infection of cells with an influenza virus. As such, applicants respectfully submit that the '544 patent cannot alone make obvious claims 1 and 25.

Further, in response to the Examiner's assertion that the claims clearly include the production of viral proteins, applicants respectfully agree. Applicants respectfully note that claim 1 relates to producing influenza virus and influenza viral proteins after infecting the cell with an influenza virus. Once the cell is infected with the influenza virus, the viral replication process begins and viral proteins are produced as part of the normal replication process as they are inherently necessary to create more viral particles. As such, applicants respectfully agree with the Examiner's assertion that the claims include the production of viral proteins. However, applicants respectfully assert that this protein production is in conjunction with a influenza viral infection. In light of the foregoing, applicants respectfully request the withdrawal of the rejections of claims 1 and 25 and reconsideration of the same. In addition, as all other claims (2, 3, 5-16, 27-29, 37, and 38) depend directly or indirectly from claims 1 and 25, applicants

respectfully submit that they are allowable, *inter alia*, as depending from an allowable base claim.

CONCLUSION

Claims 1-3, 5-16, 25, 27-29, 37, and 38 are believed to be in condition for allowance and notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, he is respectfully invited to contact Applicants' undersigned attorney.

Respectfully submitted,



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